

PSJ9 Exh 30

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -
5

6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
9 :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 :
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14 - HIGHLY CONFIDENTIAL -
15

16 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW
17 - - -
18

19 April 2, 2019
20 - - -
21

22 Videotaped deposition of
23 SERGIO TEJEDA taken pursuant to notice,
24 was held at the offices of Locke Lord,
 LLP, 200 Vesey Street, New York, New
 York, beginning at 9:01 a.m., on the
 above date, before Michelle L. Gray, a
 Registered Professional Reporter,
 Certified Shorthand Reporter, Certified
 Realtime Reporter, and Notary Public.
 - - -

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1 diligence documents the way the title
2 reads, correct?

3 MR. McDONALD: Object to the
4 form.

5 THE WITNESS: Yeah, I
6 don't -- I don't think these are
7 due diligence documents.

8 BY MR. MIGLIORI:

9 Q. Okay. And so you'll see
10 that the information is organized the
11 same for Exhibit Number 7. And again,
12 there are a couple more entries on Page 2
13 for Dr. Harper.

14 Here he got a total of nine
15 more bottles, 500 pills in each bottle,
16 of the same dosage that we just discussed
17 7.5/750 milligrams.

18 Do you see that?

19 A. Yes, I see it.

20 Q. And were you aware that he
21 was, by dosage, the largest customer of
22 Henry Schein in Summit County?

23 A. Right now?

24 Q. Ever.

1 A. At the time?

2 Q. Were you ever made aware of
3 that?

4 A. No.

5 Q. And I showed you Exhibit 6,
6 which I believe was the printout of his
7 due diligence file, or at least the
8 inventory of the computer screen shots of
9 his due diligence file. Is there
10 anything on there that pops out at you to
11 suggest that he might be the largest
12 customer of Henry Schein in Summit County
13 based on dosage units?

14 A. Do you want me to go over
15 the whole report to see who is the
16 largest? Oh.

17 Q. No, I'm asking you whether
18 by looking at this particular due
19 diligence printout, if there's anything
20 that pops out at you.

21 You can see it's the
22 verifications group that produced this
23 document.

24 But I'm asking, by looking

1 at it as director of regulatory affairs,
2 whether anything pops out at you that
3 this is a large volume customer of Henry
4 Schein or --

5 MR. McDONALD: Object to the
6 form.

7 THE WITNESS: Again, we
8 don't work with this.

9 BY MR. MIGLIORI:

10 Q. I'm sorry, I didn't hear
11 you.

12 A. So no, we don't work with
13 this.

14 Q. Okay. So if there were
15 government inquiries about this doctor in
16 2010, would those records be the
17 verifications department or the
18 regulatory department's obligation to
19 produce?

20 MR. McDONALD: Object to the
21 form.

22 THE WITNESS: I don't
23 remember.

24 BY MR. MIGLIORI:

1 Q. Would it be a joint
2 responsibility by 2010?

3 A. I'm sorry?

4 Q. Would it be a joint
5 responsibility by 2010?

6 A. I know it is a joint
7 responsibility now.

8 Q. It is now?

9 A. Yes.

10 Q. So that -- those documents
11 would exist somewhere still if the --
12 there was such an inquiry?

13 A. Dr. Harper, if it was
14 inquiry when?

15 Q. In 2010? Would you still
16 have those records?

17 A. I don't know. But if I go
18 by the record retention, I wouldn't think
19 so.

20 Q. Were you aware of the fact
21 that Dr. Harper was sentenced to ten
22 years in prison for illegal
23 prescription --

24 A. No.

1 Q. -- of opioids and controlled
2 substances?

3 A. No.

4 Q. Were you aware that
5 prosecutors connect him to eight deaths
6 of opioid-addicted users?

7 A. No.

8 Q. The second largest volume by
9 dosage in this county is a Dr. Name Brian
10 Heim. Are you familiar with Dr. Heim?

11 A. No. I have heard the name,
12 but not familiar with his file.

13 Q. Have you ever seen any
14 documentation of the DOJ and the DEA
15 asking Henry Schein for his transactional
16 information?

17 A. I may have seen a copy of
18 it.

19 Q. What's that?

20 A. I may have seen a copy of
21 it.

22 Q. What did you see to your
23 recollection?

24 A. A copy of a request.

1 familiarize yourself with Henry Schein's
2 involvement with these two doctors who
3 now sit in federal prison?

4 MR. McDONALD: Object to the
5 form.

6 You can answer that question
7 yes or no.

8 THE WITNESS: Nothing on
9 Dr. Harper, and just like I said,
10 so the document from Dr. Heim.

11 MR. MIGLIORI: This is the
12 last document and we'll take a
13 break.

14 (Document marked for
15 identification as Exhibit
16 Henry Schein-Tejeda-9.)

17 BY MR. MIGLIORI:

18 Q. Did you see this document in
19 your preparation for today, the letter
20 that you wrote to the field office of DEA
21 about the reporting --

22 A. This was in --

23 Q. Let me finish. I'm sorry.

24 A. Okay.

1 Q. Did you review this document
2 in preparation for today, which was your
3 letter to Danna Droz of the Ohio State
4 Board of Pharmacy regarding Schein
5 reporting practices in the state of Ohio?

6 A. I did review this slide.

7 Q. It's a November 9, 2012,
8 letter, which is over your name, correct?

9 A. Correct.

10 Q. This version that I have is
11 not signed. Did you believe that in fact
12 you sent this to the Ohio Board of
13 Pharmacy?

14 A. The letter was sent to the
15 Ohio Board of Pharmacy.

16 Q. And in this letter you tell
17 the Ohio Board of Pharmacy in November of
18 2012 that Henry Schein was writing for --
19 quote, "The purpose of this letter is to
20 notify the Ohio Board of Pharmacy of an
21 issue that was recently discovered while
22 conducting a routine internal review of
23 operations. During the course of our
24 internal review, we realized that Henry

1 Schein Incorporated has been
2 underreporting sales of controlled
3 substances to Ohio Board of Pharmacy as
4 required by the state's prescription
5 monitoring program (PMP)."

6 Do you recall sending that
7 letter to the Ohio Board of Pharmacy?

8 A. Yes.

9 Q. And do you recall the
10 realization that Henry Schein had been
11 underreporting controlled substances as
12 to Ohio as required by Ohio law?

13 A. Yes.

14 Q. Who was the person that
15 discovered this?

16 A. It was one of our regulatory
17 specialists.

18 Q. Who was that?

19 A. I don't remember exactly who
20 it was. I can tell you who I think it
21 was.

22 Q. What's your best educated
23 guess?

24 MR. McDONALD: Object to the

1 form.

2 Go ahead.

3 THE WITNESS: Peter Schmidt.

4 BY MR. MIGLIORI:

5 Q. Who?

6 A. Peter Schmidt.

7 Q. And did Peter Schmidt -- is
8 he the one that discovered that the
9 reports that you had been sending to Ohio
10 for sales of products that contained
11 tramadol and carisoprodol didn't -- but
12 did not include any other controlled
13 substances, is he the one that made that
14 realization?

15 MR. McDONALD: Object to the
16 form.

17 THE WITNESS: So one of our
18 specialists brought it up to our
19 attention.

20 BY MR. MIGLIORI:

21 Q. And how many controlled
22 substances were missing from the list of
23 what was required in 2012?

24 A. I can't tell you that.

1 Q. Is it dozens?

2 A. I don't know.

3 Q. Do you know how many -- how
4 significant in numbers the underreporting
5 was as of November of 2012?

6 A. I don't remember.

7 Q. Isn't it true that this
8 underreporting continued for two years
9 before it was discovered?

10 A. I'm sorry. Say that again?

11 Q. Isn't it true that this
12 underreporting of controlled substances
13 to the Ohio State Board of Pharmacy had
14 been going on for two years?

15 A. I'm not sure about the time
16 frame, if it's in the letter.

17 Q. I'll show you. On the third
18 paragraph, it says, "Please be reassured
19 that there was never any intent to avoid
20 or circumvent the company's obligation
21 under Ohio state law, and as an act of
22 good faith, Henry Schein is providing all
23 controlled substances sales information
24 which was mistakenly omitted for the

1 previous two years. See enclosures."

2 A. Okay.

3 Q. Isn't it true that Henry
4 Schein, for two years, underreported the
5 sale of controlled substances within the
6 state of Ohio, from at least 2010 to
7 2012?

8 MR. McDONALD: Object to the
9 form.

10 THE WITNESS: So I don't
11 know if it was two years that we
12 underreported. I know that we
13 were providing two years of
14 information.

15 BY MR. MIGLIORI:

16 Q. Your letter says,
17 unequivocally, "Information which was
18 mistakenly omitted for the previous two
19 years."

20 Those are your words,
21 correct?

22 A. Those are my words.

23 Q. That would include Summit
24 County, Ohio, my client, correct?

1 A. The state of Ohio.

2 Q. So at this point in 2010,
3 the oxycodone would have been a
4 controlled substance that would not be
5 reported here, correct?

6 A. From what the letter says,
7 we only were reporting a couple of drugs.

8 Q. Hydrocodone would not have
9 been reported, correct?

10 A. According to the letter.

11 Q. And you understand that in
12 Ohio, hydrocodone was almost 99 percent
13 of the orders filled from 2006 to 2014 in
14 Summit County? Were you aware of that?

15 MR. McDONALD: Object to the
16 form.

17 BY MR. MIGLIORI:

18 Q. From Henry Schein?

19 MR. McDONALD: Object to the
20 form.

21 BY MR. MIGLIORI:

22 Q. Were you aware of that?

23 A. No, sir, I wasn't.

24 Q. Were you aware that

1 correctly, you would agree with me that
2 based on your letter to the Ohio board on
3 November 9, 2012, Exhibit Number 9, that
4 none of those 11,500 hydrocodone orders
5 to Dr. Heim would have been reported to
6 the Ohio Board of Pharmacy based on your
7 letter, correct?

8 MR. McDONALD: Object to the
9 form.

10 THE WITNESS: So is the
11 record showing that we were in
12 communication with the DEA and
13 this is a record to the board of
14 pharmacy? I'm just confused how
15 you can -- and what --

16 BY MR. MIGLIORI:

17 Q. I -- I can show you several
18 different ways. We can start with the
19 exhibit, I believe it's Exhibit 8.

20 But if you look at the Henry
21 Schein transactional records from post
22 January 2009 and you turn to Page 3.

23 A. Okay.

24 Q. You see all of these orders

1 for Dr. Heim?

2 A. Yes.

3 Q. And you see these are all
4 hydrocodone orders?

5 A. Yes.

6 Q. For Dr. Heim?

7 A. Mm-hmm, yes.

8 Q. And these are all in the
9 transactional records of Henry Schein,
10 correct?

11 A. That is correct.

12 Q. And they say he is
13 getting -- according to this chart, he is
14 getting, on the first line of his, one
15 bottle of 500 pills, at
16 10/500 milligrams. And goes down the
17 list. Then he increases to two bottles
18 of 500 pills at 10/500 milligrams.

19 You see all of those
20 entries, correct?

21 A. Yes.

22 Q. These are records maintained
23 by Henry Schein, correct?

24 A. That is correct.

1 Q. And those records were also
2 reported to ARCOS, the federal DEA,
3 correct?

4 A. Yes, they were.

5 Q. And the DEA, by looking at
6 those very same records, contacted Henry
7 Schein and said to Henry Schein, there's
8 something unusual about this doctor's
9 ordering, correct?

10 MR. McDONALD: Object to the
11 form.

12 THE WITNESS: I don't know.

13 MR. McDONALD: Form and
14 foundation. Mischaracterizes the
15 evidence.

16 BY MR. MIGLIORI:

17 Q. Do you recall the inquiry
18 about the transactional records from DEA
19 that you read?

20 A. No.

21 Q. You don't recall the
22 substance of it?

23 A. No.

24 Q. When the DEA contacted Henry

1 Schein, was the DEA -- did Henry Schein
2 have an appreciation that the DEA, when
3 they asked for transactional record, is
4 looking for suspicious order practices,
5 would that be a reasonable assumption at
6 Henry Schein?

7 MR. McDONALD: Object to the
8 form.

9 THE WITNESS: Not really.
10 Henry Schein has had a very good
11 relationship with all the local
12 DEA offices and also the
13 Washington office. The fact that
14 they asked for records doesn't
15 necessarily mean that they are
16 looking for something on the
17 customer.

18 BY MR. MIGLIORI:

19 Q. In that month, he was
20 indicted in August, based on the
21 transactional records Henry Schein
22 provided. Were you aware of that?

23 MR. McDONALD: Object to the
24 form.

1 THE WITNESS: No, I wasn't.

2 BY MR. MIGLIORI:

3 Q. In August of 2012, these
4 records that you have here, in this
5 exhibit that we're looking at, were
6 never, ever reported to the Ohio Board of
7 Pharmacy as required by Ohio law,
8 correct?

9 A. They were reported at the
10 time of this letter.

11 Q. Right. They weren't
12 reported until November of 2012 with two
13 years of unreported transactions,
14 correct?

15 A. Again, I don't know -- I
16 cannot tell you the time frame of the
17 underreporting.

18 Q. You -- you write it out and
19 you put a number in. It says,
20 "Mistakenly omitted for the previous two
21 years, see enclosures."

22 Did you ever look at these
23 enclosures when you reviewed this
24 document?

1 A. I would have.

2 Q. When you prepared for this
3 deposition and you saw this Exhibit
4 Number 9, where you wrote to the Ohio
5 Board of Pharmacy and said we have
6 mistakenly omitted two years of
7 controlled substance reporting to you,
8 did it have attached to it the enclosures
9 that's referenced in your letter to the
10 board of pharmacy?

11 A. Did I have the enclosures?
12 No, I didn't read the enclosures.

13 Q. Those two years of -- of
14 omitted reporting to the Ohio Board of
15 Pharmacy, do you know if they still exist
16 somewhere at Henry Schein?

17 A. I don't know. But, however,
18 I think my point is that we are offering
19 two years of records to the board.

20 Q. Which --

21 A. I don't think we're
22 necessarily saying that we omitted two
23 years of records.

24 Q. Let's go through it

1 together. Because the jury can actually
2 see this as we print it. So I -- I don't
3 want there to be any confusion. Or if
4 I've mistaken, you can show me how I'm
5 mistaken.

6 Do you see where I am where
7 it says in the third paragraph, please?

8 A. Right.

9 Q. And we'll read this
10 altogether for the jury's benefit.

11 "Please be reassured that
12 there was never any intent to avoid or
13 circumvent the company's obligation under
14 Ohio state law, and as an act of good
15 faith, Henry Schein Incorporated is
16 providing all controlled substance sales
17 information which was mistakenly omitted
18 for the previous two years, see
19 enclosures."

20 Those are your words,
21 correct?

22 A. Correct.

23 Q. You haven't seen the
24 enclosures in preparation for today,

1 correct, just this letter?

2 A. Correct.

3 Q. But at least based on this
4 letter, you provided two years of
5 mistakenly omitted reporting to the Ohio
6 Board of Pharmacy, correct?

7 A. So we provided two years of
8 information. I can see -- you can read
9 it that way. I can read it a little
10 different too.

11 Q. Did I read it properly?

12 MR. McDONALD: Object to the
13 form.

14 BY MR. MIGLIORI:

15 Q. Did I read it properly?
16 Whatever the information is, did I read
17 it properly?

18 A. I think the fact that I can
19 say over here is that the information
20 that we produced at this time was two
21 years of information.

22 Q. Okay. Those are -- those
23 are some of the words of the sentence.
24 If you put them all together, it

1 references, "All controlled substance
2 sales information which was mistakenly
3 omitted."

4 That's what you provided,
5 for the previous two years?

6 A. Right.

7 Q. You provided all of the
8 controlled substance sales information
9 which was mistakenly omitted for the
10 previous two years.

11 Do you see that?

12 A. I see that.

13 Q. Those are your words?

14 A. Those are my words.

15 Q. And that would include,
16 because it's November 2012, all of the
17 hydrocodone that Dr. Heim ordered from
18 Henry Schein, which led to his conviction
19 in federal court, in this federal court
20 in Ohio, correct?

21 MR. McDONALD: Object to the
22 form.

23 THE WITNESS: That would
24 include all the information of

1 controlled substances that was
2 distributed to Ohio customers for
3 the prior two years.

4 BY MR. MIGLIORI:

5 Q. And in those prior two
6 years, as we just saw, hydrocodone was
7 the order -- the only thing that Dr. Heim
8 ordered from Henry Schein in Summit
9 County, correct?

10 MR. McDONALD: Object to the
11 form.

12 You've totally
13 mischaracterized this record.

14 MR. MIGLIORI: I have your
15 objection.

16 MR. McDONALD: It only --
17 only as to controlled substance.
18 Be careful.

19 MR. MIGLIORI: This is a
20 controlled substance letter.

21 MR. McDONALD: Correct. But
22 you're saying that is all we sold
23 to him. I don't know if we sold
24 him all other kinds of stuff.

1 MR. MIGLIORI: With all due
2 respect, that is all I have. And
3 it's all you -- it's what you've
4 given me. So everything that
5 Dr. Heim --

6 MR. McDONALD: This is -- if
7 you want to ask him if that's all
8 the controlled substances that we
9 sold to him, that's fine. But
10 there's no evidence that that's
11 all we sold to him.

12 MR. MIGLIORI: All right.
13 In fact that's the only evidence,
14 because that's what you've
15 provided me.

16 MR. McDONALD: You only
17 asked for evidence of controlled
18 substance.

19 MR. MIGLIORI: Listen, we
20 don't need to debate this. We
21 don't need to -- I get to ask the
22 questions. And if you have a
23 problem, you state your objection.

24 MR. McDONALD: You do.

1 BY MR. MIGLIORI:

2 Q. In this exhibit of
3 Dr. Heim's transactions as we've gone
4 through, they are all related to
5 hydrocodone tablets, correct?

6 A. The report?

7 Q. Take as much time as you
8 want to look at it.

9 A. What report are you looking
10 at?

11 MR. McDONALD: The exhibit.

12 BY MR. MIGLIORI:

13 Q. The opioid orders post
14 January 2009.

15 MR. McDONALD: Tell him what
16 exhibit, Don.

17 MR. MIGLIORI: He's going to
18 have to tell me because he's got
19 it.

20 BY MR. MIGLIORI:

21 Q. What number is that exhibit?

22 A. That is Tejeda Number 7.

23 Q. Exhibit Number 7, if you
24 start on Page 3, and you look at all of

1 the Brian Heim orders listed there, every
2 one of them on Page 3 and Page 4, is
3 hydrocodone tablets, correct?

4 A. Yes.

5 Q. If you go to the order date,
6 every one of them is in 2011 or 2012,
7 correct?

8 A. Yes.

9 Q. And they are all before
10 November 9, 2012, correct?

11 A. That is correct.

12 Q. And in your letter to Danna
13 Droz from the Ohio State Board of
14 Pharmacy, you specifically inform the
15 Board of Pharmacy in November of 2012
16 that you did not report any hydrocodone
17 orders from Summit County from -- for the
18 prior two years from November of 2012,
19 correct?

20 A. I didn't specifically
21 mention hydrocodone in my letter.

22 Q. You specifically referenced
23 that it was not the two controlled
24 substances that you did report, correct?

1 You only reported two controlled
2 substances in those two years.

3 A. Right.

4 Q. And neither were
5 hydrocodone, correct?

6 A. Correct.

7 Q. So every single pill that
8 you sold to Dr. Heim in Summit County in
9 2011 and 2012 went unreported to the Ohio
10 Board of Pharmacy, correct?

11 MR. McDONALD: Object to the
12 form.

13 THE WITNESS: Up to this
14 point, yes.

15 MR. MIGLIORI: Thank you.

16 I want to take a break.

17 THE VIDEOGRAPHER: Going off
18 the record at 12:04 p.m.

19 - - -

20 (Lunch break.)

21 - - -

22 THE VIDEOGRAPHER: Back on
23 the record at 12:49 p.m.

24 (Document marked for

1 system, correct?

2 A. Say that again.

3 MR. McDONALD: Object to
4 form.

5 BY MR. MIGLIORI:

6 Q. Tiffany Steffanie-Oak
7 reported to you in 2013, that 60 percent
8 of your customers had no due diligence,
9 and the other 40 percent had varying
10 degrees of due diligence in their files,
11 based on Henry Schein's "know your
12 customer" system, correct?

13 A. Again, I already told you
14 that it was a process. It was over
15 20,000 customers that needed to be worked
16 on, and it took some time to get there.

17 Q. Maybe you can answer my
18 question. My question to you was, more
19 than 60 percent of your customers in 2013
20 had no due diligence in their files based
21 on the due diligence system that Henry
22 Schein had in place, correct?

23 A. I couldn't tell you what we
24 had, what we had in file in 2013. I can

1 From to those, an appropriate 4 to
2 5 percent will place an order for
3 controlled substances. Using the
4 4 percent that equates to 1,560 new
5 accounts ordering controlled substances
6 each year."

7 Do you recall performing
8 that analysis?

9 A. I don't recall, but I
10 certainly did.

11 Q. "Tina based her analysis on
12 2012 numbers. I learned from a recent
13 conversation with Shaun Abreu,
14 verifications manager, that the number of
15 active accounts ordering controlled
16 substances products is now closer to
17 40,000 and that we have completed due
18 diligence for about 13,000 accounts."

19 Do you recall that 27,000
20 accounts, as of the writing of this
21 document in August of 2013, had no due
22 diligence in them?

23 A. They didn't have a complete
24 due diligence file, yeah.

1 Q. 27,000 accounts for
2 customers that were expected to order
3 controlled substance had no due
4 diligence, correct?

5 A. Correct.

6 Q. And based on the estimates
7 then, you didn't expect to be caught up
8 in this process for another three years,
9 correct?

10 A. That's what it says, yes.

11 Q. Do you think you may have
12 gotten it done in 2015, instead of 2016,
13 correct?

14 A. Yeah, the -- the completion
15 of due diligence file for all accounts
16 was done around that time. However, we
17 put the process in place to ensure that
18 if an account doesn't have a due
19 diligence on file and places an order,
20 then we will be required to complete one.

21 Q. But that --

22 A. That was on or about 2015.

23 Q. Let's explore that.

24 So there are -- through

1 2013, there are 27,000 doctors and
2 prescriber -- and -- and facilities
3 ordering controlled substances from Henry
4 Schein without the due diligence required
5 from DEA to know your customer, correct?

6 MR. McDONALD: Object to the
7 form.

8 THE WITNESS: Without the
9 complete due diligence file.

10 BY MR. MIGLIORI:

11 Q. No. The 27,000 represents
12 those that had no due diligence. The
13 13,000 represents due diligence of
14 varying degrees, correct?

15 MR. McDONALD: Object to
16 form.

17 BY MR. MIGLIORI:

18 Q. Do you remember that from
19 Tina?

20 MR. McDONALD: Object to the
21 form.

22 BY MR. MIGLIORI:

23 Q. Do you remember Tina telling
24 you that?

1 completed due diligence files for
2 all the accounts that we have.

3 BY MR. MIGLIORI:

4 Q. This report and
5 recommendation is dated December 16,
6 2009.

7 A. Okay.

8 Q. You said you promptly
9 responded to this recommendation?

10 A. Yes, we did.

11 Q. In 2013, according to your
12 employee, 60 percent of those files had
13 nothing in them for due diligence,
14 correct?

15 A. Correct.

16 Q. Is that prompt response to
17 the new onboarding due diligence "know
18 your customer" process at Henry Schein?

19 MR. McDONALD: Object to the
20 form.

21 THE WITNESS: Yeah. We set
22 processes to look at the accounts
23 based on risk level. We
24 prioritize it that way. We

1 dealt with -- that had a bearing on
2 wholesale distributors' obligations as
3 DEA registrants to prevent diversion?

4 A. Yes, sir.

5 Q. "As a result of the Masters
6 decision, distributors must review the
7 way we evaluate and process orders of
8 controlled substances to assure
9 compliance with the new interpretation of
10 articulate" -- "articulated in Masters."

11 That's what you were now
12 recommending to Henry Schein the company,
13 is that they had to look at how you had
14 been doing things with respect to the
15 shipping of pended orders, correct?

16 A. That was --

17 MR. McDONALD: Object to
18 form. Go ahead.

19 THE WITNESS: I'm sorry.

20 That was more the reporting
21 of suspicious orders.

22 BY MR. MIGLIORI:

23 Q. Well, the reporting in
24 the -- okay. And what's highlighted

1 here, it says, "Based on the decision,
2 there is consensus that when a suspicious
3 order monitoring system designed to
4 evaluate orders based on frequency,
5 volume or pattern flags an order, that
6 order is suspicious and must be reported
7 to the DEA."

8 Is that the takeaway that --
9 that you were reporting to Henry Schein
10 of the -- of the import of the Masters
11 decision?

12 A. Yeah, the Masters decision
13 actually clarified that.

14 Q. Okay. What it clarified was
15 that what you were calling pended orders
16 that whole time, Masters clarified to be,
17 in fact, suspicious orders, correct?

18 MR. McDONALD: Object to the
19 form.

20 BY MR. MIGLIORI:

21 Q. That was a clarification?

22 A. Yeah, that was our read of
23 the -- of the opinion from the judge.

24 Q. So if, in fact, your system

1 flagged an order because of a deviation
2 based on frequency, volume, or pattern,
3 that the order, in all caps, is
4 suspicious and must be reported to the
5 DEA at that time, correct?

6 A. Yes, that's what the -- the
7 judge interpretation was.

8 Q. It's also what the
9 Controlled Substances Act says, doesn't
10 it?

11 MR. McDONALD: Object to the
12 form.

13 THE WITNESS: The Controlled
14 Substances Act?

15 BY MR. MIGLIORI:

16 Q. Have you ever read the
17 Controlled Substances Act?

18 A. Could you help me with what
19 section you are referring to?

20 Q. I'm referring to the section
21 that says suspicious orders include. Do
22 you recall that section?

23 A. From the C.F.R.?

24 Q. Yes.

1 BY MR. MIGLIORI:

2 Q. All right. And prior to the
3 Masters decision, that is not what Henry
4 Schein was doing, correct? That is,
5 prior to the Masters decision, prior to
6 June 30th of 2017, Henry Schein was not
7 reporting any flagged order that had a
8 deviation of size, frequency, or pattern
9 in the Henry Schein suspicious order
10 monitoring program, they were not
11 reporting it to the DEA's field office,
12 correct?

13 MR. McDONALD: Object to the
14 form.

15 THE WITNESS: Prior to
16 Masters decision, we were
17 complying with the regulation --
18 with the regulation by notifying
19 the DEA, by reporting to the DEA,
20 orders that were deemed
21 suspicious, which were an accepted
22 practice.

23 BY MR. MIGLIORI:

24 Q. Not my question. My

1 question to you is, prior to the Masters
2 decision in June of 2017, Henry Schein
3 did not deem an order that was a
4 deviation in frequency, volume, or
5 pattern a suspicious order and report it
6 to the DEA when discovered, correct?

7 MR. McDONALD: Object to the
8 form.

9 THE WITNESS: We didn't
10 report orders that were flagged by
11 our system until we deem it
12 suspicious.

13 BY MR. MIGLIORI:

14 Q. So Henry Schein, prior to
15 the Masters decision would pend an order
16 that was a deviation of frequency,
17 volume, or pattern and not report it to
18 the DEA unless and until it later
19 determined it to be suspicious, correct?

20 A. Which was what was compliant
21 with the regulation.

22 Q. No. My question to you, is
23 that correct? Is that what you did?

24 A. We would pend an order,